

**REMARKS**

**The Section 112 Rejections**

Applicant wishes to thank the Examiner for withdrawing the Section 112 rejections.

**Allowable Subject Matter**

Applicant wishes to thank the Examiner for indicating that claims 11, 24, 32 and 39 represent allowable subject matter if rewritten in independent form to include all of the features of any base claim and intervening claim.

**The Section 102 and 103 Rejections**

Claims 1 and 12 were rejected under 35 U.S.C. §102(e) as being anticipated by Brueckheimer, U.S. Patent No. 6,574,224 ("Brueckheimer"). Claims 2-6, 10, 13-17, 23, 31 and 38 were rejected under 35 U.S.C. §103(a) as being unpatentable over Brueckheimer in view of Catellano [sic], U.S. Patent No. 6,674,750. Applicant wishes to point out that it is believed the Examiner meant "Castellano." Hereafter, it will be referred to as such.

Claims 7 and 18 were rejected under 35 U.S.C. §103(a) as being unpatentable over Brueckheimer and Castellano and in further view of Ko, U.S. Patent No. 5,479,407 ("Ko"). Claims 8 and 19 were rejected under 35 U.S.C. §103(a) as being unpatentable over Brueckheimer, Castellano, Ko and in further view of Caldara, U.S. Patent No. 5,982,771 ("Caldara"). Claims 9 and

25-27 were rejected under 35 U.S.C. §103(a) as being unpatentable over Brueckheimer in view of Castellano, Ko, Caldara and in further view of Houji, U.S. Patent No. 5,832,197 ("Houji"). Claims 20-22 were rejected under 35 U.S.C. §103(a) as being unpatentable over Brueckheimer, in further view of Castellano and Houji. Claims 28 and 33 were rejected under 35 U.S.C. §103(a) as being unpatentable over Brueckheimer, Castellano and in further view of Ko. Claims 29 and 34 were rejected under 35 U.S.C. §103(a) as being unpatentable over Brueckheimer in view of Castellano and Ko and Caldara. Claims 30 and 40-42 were rejected under 35 U.S.C. §103(a) as being unpatentable over Brueckheimer in view of Castellano, Ko, Caldara and Houji. Claims 35-37 were rejected under 25 U.S.C. §103(a) as being unpatentable over Brueckheimer, Castellano, Ko and in further view of Houji.

Applicant respectfully disagrees and traverses these rejections for at least the following reasons.

Because each of the Section 102 and 103 rejections relies on the disclosure, in full or in part, of Brueckheimer, it is to this reference that Applicant addresses his comments.

Each of the claims of the present invention requires, among other things, the routing of IP traffic to a circuit switch fabric or packet switch fabric depending on an ATM service category of the IP traffic. It is respectfully submitted that Brueckheimer does not disclose or suggest such routing. Though the Office Action indicates that FIG. 1, along with column 5, line 51 to

column 6, line 32, 46 and 67 and column 7, lines 1-25 disclose such routing, Applicant respectfully disagrees.

The Applicant has read these excerpts from Brueckheimer. Contrary to the statements made in the Office Action, Applicant was not able to find a disclosure or even a suggestion that Brueckheimer is routing traffic to either a circuit switch or packet switch fabric depending on an ATM service category of IP traffic. Instead, it appears that Brueckheimer assumes that an ATM multiplexer will receive an appropriate ATM compatible data stream and an MPEG device will receive an appropriate MPEG compatible data stream. That is, Brueckheimer appears to assume that a correct routing decision has already been made but does not disclose how such decisions are carried out.

In contrast, the present invention requires that the ATM service category of IP traffic be examined in order to select a circuit switch fabric or a packet switch fabric. These decisions are not determined beforehand or assumed, as they appear to be in Brueckheimer. The fact that Brueckheimer mentions service levels is not tantamount to a disclosure or suggestion that Brueckheimer first evaluates or examines an ATM service category in order to determine which fabric will eventually be selected to carry out routing of IP traffic.

Accordingly, because each of the rejections relies on Brueckheimer, it is respectfully submitted that each of the rejections are inappropriate because Brueckheimer does not disclose or suggest the routing of IP traffic to a circuit

switch fabric or a packet switch fabric depending on an ATM service category of the IP traffic nor do any of the additional references overcome this deficiency.

Accordingly, Applicant respectfully requests withdrawal of the §102 and §103 rejections and allowance of claims 1-42.

Applicant respectfully requests that the Examiner point out the specific column and line number where the ATM service category of IP traffic the Examiner evaluated and based on that examination or evaluation a decision is made to route IP traffic to a circuit switch or packet switch fabric, as in the claims of the present invention.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John E. Curtin at the telephone number of the undersigned below.

In the event this Response does not place the present application in condition for allowance, applicant requests the Examiner to contact the undersigned at (703) 668-8000 to schedule a personal interview.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY, & PIERCE, P.L.C.

By

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